

CIVIL SERVICE COMMISSION MINUTES

August 29, 2002

A special meeting of the Civil Service Commission was held at 1:00 p.m., in Room 358 at the County Administration Building, 1600 Pacific Highway, San Diego, California.

Present were:

Gordon Austin
Barry I. Newman
Sigrid Pate
Mary Gwen Brummitt
Marc Sandstrom

Comprising a quorum of the Commission

Support Staff Present:

Larry Cook, Executive Officer
Ralph Shadwell, Senior Deputy County Counsel
Selinda Hurtado-Miller, Reporting

CIVIL SERVICE COMMISSION MINUTES
August 29, 2002

CLOSED SESSION: No Items for Discussion.

1:00 p.m. OPEN SESSION: Room 358, 1600 Pacific Highway,
San Diego, California 92101

<u>Discussion Items</u>	<u>Continued</u>	<u>Referred</u>	<u>Withdrawn</u>
19,20,21,24,25		18	13,14

COMMENTS Motion by Newman to approve all items not held for discussion;
seconded by Brummitt. Carried.

REGULAR AGENDA
County Administration Center, Room 358

NOTE: Five total minutes will be allocated for input on Agenda items unless additional time is requested at the outset and it is approved by the President of the Commission.

WELCOME

1. Welcome Marc Sandstrom, Esq., newly appointed Civil Service Commissioner.

MINUTES

2. Approval of the Minutes of the special meeting of July 26, 2002.

Approved.

CONFIRMATION OF ASSIGNMENTS

3. Commissioner Newman: Michael P. Baranic, Esq., on behalf of **William Lewis**, Deputy Sheriff-Detentions, appealing an Order of Suspension and Charges from the Sheriff's Department.

Confirmed.

4. Commissioner Austin: **Antonio Smith**, former Deputy Sheriff, appealing an Order of Termination and Charges from the Sheriff's Department.

Confirmed.

5. Commissioner Brummitt: Michael M. Freeland, Esq., on behalf of **Esteban Zemacki**, former Drafting Technician III, appealing an Order of Removal and Charges from the Department of Public Works.

Confirmed.

6. Commissioner Pate: Wendell Prude, S.E.I.U. Local 2028, on behalf of **Deanne Dorsey**, former Community Living Aide, appealing an Order of Removal and Charges from the Health and Human Services Agency (HHSa).

Confirmed.

7. Commissioner Newman: Brian Polejes, S.E.I.U. Local 535, on behalf of **Carlos Hernandez**, Eligibility Technician, appealing a Final Order of Suspension and Transfer and Charges from the HHSA.

Confirmed.

8. Commissioner Austin: Donovan Jacobs, Esq., on behalf of **Terry Phillips**, Deputy Sheriff, appealing an Order of Pay Step Reduction and Charges from the Sheriff's Department.

Confirmed.

9. Commissioner Brummitt: Wendell Prude, S.E.I.U. Local 2028, on behalf of **Jamie-Louise Miller**, former Intermediate Clerk Typist, appealing an Order of Removal and Charges from the HHSA.

Confirmed.

10. Commissioner Pate: Wendell Prude, S.E.I.U. Local 2028, on behalf of **Ursula Homan**, Detentions Processing Technician, appealing an Order of Removal of Trainer Pay and Charges from the Sheriff's Department

Confirmed.

11. Roy Dixon, former Commissioner, as an outside investigating officer regarding the discrimination complaint filed by Michelle A. Perfili, Esq., on behalf of **Cindy L. Mitchell**, Human Resources Analyst, alleging age, gender, race, orientation and other non-job related factors discrimination by Department of Human Resources. (This action confirms previous assignment as sitting Commissioner.)

Confirmed.

12. Roy Dixon, former Commissioner, as an outside investigating officer regarding the discrimination complaint filed by **Rosemarie Kurupas**, Sheriff's Sergeant, alleging retaliation discrimination by the Sheriff's Department. (This action confirms previous assignment as sitting Commissioner.)

Confirmed.

WITHDRAWALS

13. Commissioner Newman: Wendell Prude, S.E.I.U. Local 2028, on behalf of **Donald Fox**, Correctional Deputy Probation Officer I, appealing an Order of Suspension and Charges from the Department of Probation.

Withdrawn.

14. Roy Dixon, former Commissioner: **Rhonda Jackson**, Intermediate Clerk Typist, appealing an Order of Suspension and Charges from the Department of Animal Control.

Withdrawn.

SELECTION PROCESS

Findings

15. **Carl S. Gardenshire**, appeal of removal of his name by the Department of Human Resources from the employment list for Corrections Deputy Sheriff.

16. **Carlos R. Jacinto**, appeal of removal of his name by the Department of Human Resources from the employment list for Correctional Deputy Probation Officer I.

17. **Sam Sysavath**, appeal of removal of his name by the Department of Human Resources from the employment list for Correctional Deputy Probation Officer I.

RECOMMENDATION: Ratify Item Nos. 15-17. Appellants have been successful in the appellate process provided by Civil Service Rule 4.2.2.

Item Nos. 15-17 ratified.

DISCRIMINATION

Complaints

18. **Pazleona M. Espejo**, Personnel Aide, HHSA, alleging age, ethnicity and non-job-related factor (favoritism) discrimination by the Department of Parks & Recreation.

RECOMMENDATION: Assign an Investigating Officer and concurrently appoint the Office of Internal Affairs to conduct an investigation and report back.

Staff recommendation approved. Commissioner Sandstrom assigned.

Findings

19. Commissioner Brummitt: **Melissa Roose**, former Confidential Paralegal, Office of the County Counsel, alleging age, gender, and non-job-related factor discrimination by the Office of the County Counsel.

FINDINGS AND RECOMMENDATIONS:

At the regular meeting of the Civil Service Commission on May 15, 2002, the Commission appointed Mary Gwen Brummitt to investigate the complaint submitted by Complainant. The complaint was referred to the Office of Internal Affairs for investigation and report back. The report of OIA was received and reviewed by the Investigating Officer, who concurred with the findings that there was no evidence to support Employee's allegations of discrimination and that probable cause that a violation of discrimination laws occurred was not established in this matter. It is therefore recommended that: (1) this complaint be denied; and (2) the Commission approve and file this report with a findings of no probable cause that Complainant has been discriminated against on any basis protected by law.

Motion by Brummitt to approve Findings and Recommendations; seconded by Pate. Carried.

20. Commissioner Pate: **Steven B. Ruff**, Sheriff's Sergeant, alleging non-job-related factor (political activities) discrimination by the Sheriff's Department. (See No. 22 below.)

FINDINGS AND RECOMMENDATIONS:

At the regular meeting of the Civil Service Commission on May 15, 2002, the Commission appointed Sigrid Pate to investigate the complaint submitted by Complainant. The complaint was referred to the Office of Internal Affairs for investigation and report back. The report of OIA was received and reviewed by the Investigating Officer, who concurred with the findings that there was no evidence to support Employee's

allegations of discrimination and that probable cause that a violation of discrimination laws occurred was not established in this matter. The Commission determined that an investigation under the provisions of Civil Service Rule XI is not warranted regarding improper personnel practices by the Sheriff's Department. It is therefore recommended that: (1) the complaint (Rule VI) and request for investigation (Rule XI) be denied; and (2) the Commission approve and file this report with a findings of no probable cause that Complainant has been discriminated against on any basis protected by law.

Motion by Pate approve Findings and Recommendations; seconded by Newman. Carried.

21. Commissioner Pate: **Esther Rosenberg**, Patient Services Specialist II, alleging disability, religion, and ethnicity discrimination by the HHSA. (See No. 23 below.)

FINDINGS AND RECOMMENDATIONS:

At the regular meeting of the Civil Service Commission on June 19, 2002, the Commission appointed Sigrid Pate to investigate the complaint submitted by Complainant. The complaint was referred to the Office of Internal Affairs for investigation and report back. The report of OIA was received and reviewed by the Investigating Officer, who concurred with the findings that there was no evidence to support Employee's allegations of discrimination and that probable cause that a violation of discrimination laws occurred was not established in this matter. The Commission determined that an investigation under the provisions of Civil Service Rule XI is not warranted regarding improper personnel practices by the Health and Human Services Agency. It is therefore recommended that: (1) the complaint (Rule VI) and request for investigation (Rule XI) be denied; and (2) the Commission approve and file this report with a findings of no probable cause that Complainant has been discriminated against on any basis protected by law.

Motion by Pate approve Findings and Recommendations; seconded by Newman. Carried.

INVESTIGATIONS

Complaints

22. **Steven B. Ruff**, Sheriff's Sergeant, requesting a Civil Service Rule XI investigation into alleged improper personnel practices in the Sheriff's Department. (See No. 20 above.)

RECOMMENDATION: Take action pending outcome of the discrimination complaint.

Staff recommendation approved. Request for Rule XI investigation denied. See No. 20 above.

23. **Esther Rosenberg**, Patient Services Specialist II, HHSA, requesting a Civil Service Rule XI investigation into alleged improper personnel practices in the HHSA. (See No. 21 above.)

RECOMMENDATION: Take action pending outcome of the discrimination complaint.

Staff recommendation approved. Request for Rule XI investigation denied. See No. 21 above.

24. Barrett Foerster, Esq., on behalf of **Marian Modrak**, Deputy Public Defender IV, requesting a Civil Service Rule XI investigation into alleged improper operations of the Department of the Public Defender with respect to the preparation and issuance of Performance Appraisals. Continued from the Commission meetings of June 19th and July 3rd. (See No. 25 below.)

RECOMMENDATION: Deny Request.

Mr. Foerster, on behalf of Appellant, addressed the Commission regarding this item as well as Item No. 25 below. On July 3, 2002 the Commission considered a request to seal a performance appraisal and a request to conduct an investigation as presented by Mr. Foerster, in the Department of the Public Defender, which was continued at the request of all parties. At the Commission meeting of August 29, 2002, Mr. Foerster presented that there has been chronic problems in having performance evaluations completed in a timely manner in past years.

The Department, represented by Heidi Atwood, responded to Mr. Foerster. The Department readily admitted that not every timeline in the appraisal and appeal process was met. However, it believes that Appellant's original ratings should stand as written, and that procedural errors should not negate an appraisal given in good faith, which accurately documents a performance deficiency,

Staff believes that an investigation of the Department's past admitted transgressions regarding performance appraisals would not be worthwhile unless the results of investigation would assist in future improvements. The Department is reporting a dramatic increase in providing timely performance appraisals to employees.

Motion by Newman to deny request; seconded by Pate. Carried.

OTHER MATTERS

Seal Performance Appraisal

25. Barrett Foerster, Esq., on behalf of **Marian Modrak**, Deputy Public Defender IV, requesting an investigation and sealing of a Performance Appraisal for the period November 18, 2000 to November 18, 2001. Continued from the Commission meetings of June 19th and July 3rd. (See No. 24 above)

RECOMMENDATION: Deny Request.

Motion by Newman to deny request; seconded by Pate. Carried. (See No. 24 above.)

Extension of Temporary Appointments

26. County Library

1 Intermediate Clerk Typist (Carolyn Hayen)

27. Health and Human Services Agency

6 Recreational Care Worker Trainees (Cristina Dancy, Jennifer Patten, Mialisa Williams, Antonia Guzman, Karla Maldonado, Chahara McKissack)

28. Department of Planning and Land Use

1 Building Inspector I (Brent Koerting)

RECOMMENDATION: Ratify Item Nos. 26-28.

Item Nos. 26-28 ratified.

29. Public Input.

ADJOURNMENT: 1:32 p.m.

NEXT MEETING OF THE CIVIL SERVICE COMMISSION WILL BE SEPTEMBER 18, 2002.